

**SETTLEMENT AGREEMENT BETWEEN MISSOURI DENTAL BOARD
AND ROBERT M. DAVIS, D.D.S.**

Come now Robert M. Davis, D.D.S. ("Licensee") and the Missouri Dental Board ("Board") and enter into this Settlement Agreement for the purpose of resolving the question of whether Licensee's license as a dentist will be subject to discipline.

Pursuant to the terms of § 536.060, RSMo, the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri ("AHC") regarding cause to discipline Licensee's license, and, additionally, the right to a disciplinary hearing before the Board under § 621.110, RSMo.

Licensee acknowledges that Licensee understands the various rights and privileges afforded Licensee by law, including the right to a hearing of the charges against Licensee; the right to appear and be represented by legal counsel; the right to have all charges against Licensee proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against Licensee; the right to present evidence on Licensee's own behalf at the hearing; the right to a decision upon the record by a fair and impartial administrative hearing commissioner concerning the charges pending against Licensee and, subsequently, the right to a disciplinary hearing before the Board at which time Licensee may present evidence in mitigation of discipline; and the right to recover attorney's fees incurred in defending this action against Licensee's license. Being aware of these rights provided Licensee by operation of law, Licensee knowingly and voluntarily waives each and every one of these rights and freely enters into this Settlement Agreement and agrees to abide by the terms of this document, as they pertain to Licensee.

For the purpose of settling this dispute, Licensee stipulates that the factual allegations contained in this Settlement Agreement are true and stipulates with the Board that Licensee's license, numbered

2007014398, is subject to disciplinary action by the Board in accordance with the provisions of Chapters 621 and 332, RSMo.

Joint Stipulation of Facts and Conclusions of Law

1. The Board is an agency of the State of Missouri created and established pursuant to § 332.021, RSMo, for the purpose of executing and enforcing the provisions of Chapter 332, RSMo.

2. Licensee is licensed by the Board as a dentist, License No. 2007014398. Licensee's license is, and was at all times relevant herein, current and active. Licensee also held an enteral moderate sedation permit, permit number 2010018201, which was issued by the Board on June 10, 2010. Licensee's sedation permit expired June 1, 2015.

3. On or about April 11, 2013, the Board received a Medical Professional Liability Insurance Claim Report filed by J.C. against Licensee.

4. As a result of the Report, the Board initiated an investigation into J.C.'s allegations against Licensee.

5. As part of the Board's investigation, on or about July 29, 2013, the Board requested that Licensee provide the Board with ten of Licensee's most recent implant support cases. The Board requested each patient's entire record, including good, diagnostic quality, pre and post radiographs.

6. As part of the Board's investigation, the Board reviewed the ten additional implant cases Licensee submitted.

7. Licensee did not properly treatment plan the implant cases of patients J.C., M.H., B.J., F.M., N.J., J.H., H.M., and T.S.

8. Licensee failed to fabricate surgical stints and did not properly evaluate the bone quality of patients J.C., M.H., B.J., F.M., N.J., J.H., H.M., and T.S.

9. Licensee's immediate placement of the implants with infection present was contraindicated and below the standard of care with regard to patients J.C., M.H., F.M., N.J., and T.S.

10. Licensee's oral sedation documentation was below the standard of care and in violation of Board rules, including with regard to patients J.H. and T.S.

11. On or about January 16, 2014, Licensee appeared before the Board at its regularly scheduled board meeting.

12. With regard to patient J.C., Licensee agreed that the care was negligent, and that the prognosis when he placed the five implants was questionable.

13. Licensee does not normally, and did not for J.C., use a surgical stent or template, and because of this, the implants placed for J.C. were mis-angled to the point of being non-restorable, which is below the standard of care for placement.

14. Licensee did not test J.C.'s bone quality and quantity before treatment, which is below the standard of care.

15. Licensee admitted he should have stopped J.C.'s procedure when he was not able to adequately test. Because he did not stop the procedure when he realized there was not enough bone, Licensee violated the standard of care. He further violated the standard of care by placing implants in active disease or infection, and further stated that he was not aware he needed to eliminate all infection before proceeding.

16. J.C.'s implants were not a minimum of three millimeters apart, which is below the standard of care.

17. Licensee stated he would not take the case if it presented now and that he failed in treatment planning in J.C.'s case.

18. Licensee admitted to the Board that he is not familiar with the current sedation rules, as promulgated and administered by the Board.

19. Section 332.052.1, RSMo, states:

Dentists shall maintain an adequate and complete patient record for each patient and may maintain electronic records provided the record-keeping format is capable of being printed for review by the board.

20. Section 332.362.2, RSMo, states:

Dentists prescribing or administering deep sedation or general anesthesia or conscious sedation agents shall do so in accordance with the rules set forth by the board.

21. 20 CSR 2110-4.030 sets forth guidelines for administration of moderate sedation, including patient record requirements, which require that American Society of Anesthesiologists classifications be documented and substantiated; patient monitoring be recorded; vital signs, including blood pressure, be recorded; and medication type and dosage be documented.

22. Licensee's conduct, as set forth in this Settlement Agreement, constitutes a violation of Section 332.321.2(5), RSMo, which states the following as grounds for disciplinary action: "[i]ncompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of, or relating to one's ability to perform, the functions or duties of any profession licensed or regulated by this chapter."

23. Licensee's conduct, as forth in this Settlement Agreement, constitutes a violation of Section 332.052, RSMo, Section 332.362, RSMo, and 20 CSR 2110-4.030, for which the Board has cause to take disciplinary action against his license pursuant to Section 332.321.2(6), RSMo.

24. Licensee's conduct, as set forth in this Settlement Agreement, constitutes a violation of a professional trust and/or confidence for which the Board has cause to take disciplinary action against his license pursuant to Section 332.321.2(13), RSMo.

25. Cause exists for the Board to take disciplinary action against Licensee's license pursuant to § 332.321.2(5), (6), and (13), RSMo, which states, in pertinent part:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621

against any holder of any permit or license required by this chapter or any person who has failed to renew or has surrendered his or her permit or license for any one or any combination of the following causes:

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of, or relating to one's ability to perform, the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or any lawful rule or regulation adopted pursuant to this chapter;

(13) Violation of any professional trust or confidence[.]

Joint Agreed Disciplinary Order

Based upon the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the Board in this matter under the authority of § 332.321, RSMo, and Chapter 621, RSMo:

1. Licensee's dental license, license number 2007014398, is **CENSURED**, subject to the following terms and requirements:

I. SPECIFIC REQUIREMENTS

A. Licensee shall not practice any form of sedation dentistry that would require a Board issued permit. Licensee shall not attempt to apply for or to renew any sedation permit of any kind in the State of Missouri without first notifying the Executive Director of the Board. He shall thereafter be scheduled to appear before the Board to discuss same.

B. Licensee shall successfully complete surgical program sessions one through five of the Misch International Implant Institute surgical program within twelve (12) months of the effective date of this Agreement. Within thirty (30) days of successful completion of each surgical program session, Licensee shall submit to the Board a certificate of successful completion from the Misch International Implant Institute surgical program.

II. GENERAL REQUIREMENTS

A. Any failure by Licensee to comply with any condition of discipline set forth

herein constitutes a violation of this Settlement Agreement.

B. If Licensee fails to comply with the terms of this Settlement Agreement, in any respect, the Board may impose such additional or other discipline that it deems appropriate, including imposition of revocation. Section 324.042, RSMo.

C. Licensee further agrees that any failure to comply with the terms of this Settlement Agreement constitutes cause for the Board to impose or pursue further discipline under § 332.321.2(5) and (13), RSMo.

D. This Settlement Agreement does not bind the Board or restrict the remedies available to it concerning any other violation of Chapter 332, RSMo, by Licensee not specifically mentioned in this document.

E. If the Board determines that Licensee has violated a term or condition of this Settlement Agreement, which violation would also be actionable in a proceeding before the Administrative Hearing Commission or the circuit court, the Board may elect to pursue any lawful remedies or procedures afforded it, and it is not bound by this Settlement Agreement in its determination of appropriate legal actions concerning that violation.

F. By entering into this Settlement Agreement, the Board does not waive any right to pursue further action based on future complaints it may receive concerning Licensee's professional conduct, and specifically reserves its right to pursue disciplinary action, and pursue any available legal or equitable remedies, against Licensee's license should future complaints or violations of this Agreement warrant same.

2. The parties to this Settlement Agreement understand that the Missouri Dental Board will maintain this Agreement as an open record of the Board as provided in Chapters 332, 610 and 324, RSMo.

3. The terms of this Settlement Agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise provided herein, neither this Settlement Agreement nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

4. Licensee, together with his heirs and assigns, and his attorneys, do hereby waive, release, acquit and forever discharge the Board, its respective members and any of its employees,

agents, or attorneys, including any former Board members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including but not limited to, any claims for attorney's fees and expenses, including any claims pursuant to § 536.087, RSMo, or any claim arising under 42 U.S.C. § 1983, which may be based upon, arise out of, or relate to any of the matters raised in this case, its settlement, or from the negotiation or execution of this Settlement Agreement. The parties acknowledge that this paragraph is severable from the remaining portions of this Settlement Agreement in that it survives in perpetuity even in the event that any court of law deems this Settlement Agreement or any portion thereof to be void or unenforceable.

5. If no contested case has been filed against Licensee, Licensee has the right, either at the time the Settlement Agreement is signed by all parties or within fifteen days thereafter, to submit the agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties to the Settlement Agreement constitute grounds for denying or disciplining the license of Licensee. If Licensee desires the Administrative Hearing Commission to review this Agreement, Licensee may submit this request to: Administrative Hearing Commission, United States Post Office Building, Third Floor, 131 W. High Street, P.O. Box 1557, Jefferson City, Missouri 65101.

6. If Licensee has requested review, Licensee and the Board jointly request that the Administrative Hearing Commission determine whether the facts set forth herein are grounds for disciplining Licensee's license and issue findings of act and conclusions of law stating that the facts agreed to by the parties are grounds for disciplining Licensee's license. Effective the date the Administrative Hearing Commission determines that the Agreement sets forth cause for disciplining Licensee's license, the agreed upon discipline set forth herein shall go into effect. If Licensee does not request review by the Administrative Hearing Commission, the Settlement Agreement goes in to effect 15 days after the document is signed by the Executive Director of the Board.

LICENSEE

Robert M. Davis, D.D.S.
Robert M. Davis, D.D.S.

Date 5-18-16

BOARD

Brian Barnett
Brian Barnett
Executive Director
Missouri Dental Board

Date 5/31/2016